

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Murdy	Team: Squad #6	CCRB Case #: 201507631	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/01/2015 , Wednesday, 09/02/2015 5:00 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 60	18 Mo. SOL 3/2/2017	EO SOL 3/2/2017	
Date/Time CV Reported Wed, 09/09/2015 3:12 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 09/09/2015 3:12 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Christophe Zaleski	00000	923399	060 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel White	12223	953565	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Christophe Zaleski	Abuse: Lt. Christopher Zaleski questioned § 87(2)(b) and § 87(2)(b)	
B.LT Christophe Zaleski	Abuse: Lt. Christopher Zaleski stopped § 87(2)(b)	
C.LT Christophe Zaleski	Abuse: Lt. Christopher Zaleski stopped § 87(2)(b)	
D.LT Christophe Zaleski	Abuse: Lt. Christopher Zaleski searched the car in which § 87(2)(b) was an occupant.	
E.LT Christophe Zaleski	Abuse: Lt. Christopher Zaleski searched § 87(2)(b)	
F.LT Christophe Zaleski	Abuse: Lt. Christopher Zaleski entered § 87(2)(b) in Brooklyn.	
G.LT Christophe Zaleski	Discourtesy: Lt. Christopher Zaleski spoke discourteously to § 87(2)(b)	

### Case Summary

On September 9, 2015, § 87(2)(b) filed this complaint in person at the CCRB.

On September 2, 2015, at approximately 5 p.m., § 87(2)(b) and § 87(2)(b) were talking next to § 87(2)(b)'s truck, in front of § 87(2)(b) in Brooklyn. A few minutes later, Lt. Zaleski and PO White, who were driving in a black, Chevy Impala, pulled over, and approached § 87(2)(b) and § 87(2)(b) on foot.

Lt. Zaleski asked both men for their IDs and asked § 87(2)(b) if the truck was his. § 87(2)(b) said it was his truck and told him his ID was in the truck (**Allegation A**). § 87(2)(b) retrieved his ID from his truck and handed it to Lt. Zaleski, who told him to go sit on the bed of the truck with § 87(2)(b) (**Allegations B and C**). Lt. Zaleski then went inside § 87(2)(b)'s truck and searched through the center console and around the backseats (**Allegation D**).

Lt. Zaleski then ordered § 87(2)(b) to stand up and he searched through his all of his pants pockets (**Allegation E**). After the search, Lt. Zaleski took § 87(2)(b) inside of his apartment, § 87(2)(b) because § 87(2)(b) did not have ID (**Allegation F**). Approximately ten minutes later, § 87(2)(b) and Lt. Zaleski came back outside and § 87(2)(b) told Lt. Zaleski he was going to make a complaint against the officers. Lt. Zaleski said in reference to the CCRB, "They don't give a fuck about you there" (**Allegation G**). § 87(2)(b) asked Lt. Zaleski and PO White for their names and badge numbers, which were provided, and the officers left (See Board Review 01). No summonses were issued and no arrests were made.

### Mediation, Civil, and Criminal Histories

§ 87(2)(b) rejected mediation § 87(2)(b). On November 19, 2015, a notice of claim check was filed with the NYC Comptroller's Office (See Board Review 02). A response is pending. § 87(2)(b) has no prior criminal convictions.

### Civilian and Officer CCRB Histories

- § 87(2)(b) has been a complainant in four other CCRB complaints. § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- Lt. Zaleski has been a member of the NYPD for 17 years and has 10 prior CCRB allegations against him, none of which were substantiated. He currently has one other open CCRB complaint, #201507319, § 87(2)(g)  
§ 87(2)(b)

### **Subject Officer Identification**

It is undisputed that Lt. Zaleski and PO White were present for this incident. Despite the fact that Lt. Zaleski and PO White both claim to have initiated the question and stop, Lt. Zaleski was the supervising officer present during the incident. § 87(2)(g)

Subsequently, § 87(2)(b) stated that it was only Lt. Zaleski who searched his truck, searched his person, entered § 87(2)(b)'s residence, and uttered the discourteous statement. § 87(2)(g)

### **Video Footage**

There are no cameras in the vicinity of § 87(2)(b) in Brooklyn. Additionally, there are no body cameras assigned to the 60<sup>th</sup> Precinct. Therefore, there is no video footage of this incident.

### **Potential Issues**

During his CCRB interview, § 87(2)(b) repeatedly emphasized the fact that he had a very bad memory and could not recall specific aspects of the incident, including the date of the incident and the time of day when it occurred. The date of the incident was obtained from Lt. Zaleski himself, who noted the incident in his memo book.

The other victim in this case, § 87(2)(b) declined to participate in this investigation. On November 10, 2015, § 87(2)(b) was contacted by phone and he immediately withdrew his participation before providing any statement.

### **Allegations and Recommendations**

**Allegation A - Abuse of Authority: Lt. Christopher Zaleski questioned § 87(2)(b) and**

**§ 87(2)(b)**

**Allegation B – Abuse of Authority: Lt. Christopher Zaleski stopped § 87(2)(b)**

**Allegation C – Abuse of Authority: Lt. Christopher Zaleski stopped § 87(2)(b)**

It is undisputed that on September 2, 2015, at approximately 5 p.m., Lt. Christopher Zaleski questioned and stopped § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) in Brooklyn.

According to § 87(2)(b) prior to the arrival of Lt. Zaleski and PO White, he and § 87(2)(b) were just talking while standing next to his truck. Lt. Zaleski and PO White approached him and § 87(2)(b) and asked for their IDs. Lt. Zaleski asked § 87(2)(b) what he was doing at the location and if the truck belonged to him. After obtaining § 87(2)(b)'s ID, Lt. Zaleski told him to sit on the rear bumper of his truck with § 87(2)(b). Lt. Zaleski and § 87(2)(b) then went inside the § 87(2)(b)'s apartment to retrieve his ID. PO White stayed outside with § 87(2)(b). Given that § 87(2)(b) and § 87(2)(b) were initially told to sit on the bumper of the truck and § 87(2)(b)

§ 87(2)(b) was later taken inside of his apartment by Lt. Zaleski as PO White guarded § 87(2)(b) by the truck, § 87(2)(b) and § 87(2)(b) were not free to leave (See Board Review 01).

In their CCRB testimony, both Lt. Zaleski and PO White stated that while driving down West 33<sup>rd</sup> Street, Lt. Zaleski spotted § 87(2)(b) and § 87(2)(b) standing next to a pickup truck. Lt. Zaleski thought he recognized § 87(2)(b) as § 87(2)(b) a suspect wanted for a string of robberies of elderly people in Coney Island that achieved fairly widespread media attention. A *New York Daily News* article, dated August 2015, confirmed Lt. Zaleski's and PO White's testimony that there was an ongoing investigation in the area, and there were six past robberies since July 2015 in the vicinity of the West 30's in Brooklyn (See Board Review 10).

Both Lt. Zaleski and PO White had interactions with § 87(2)(b) in the past and agreed that the person standing with § 87(2)(b) looked like him. Additionally, § 87(2)(b) last known address was § 87(2)(b) § 87(2)(b), the location the two men were standing in front of when the officers approached them. Therefore, both officers believed § 87(2)(b) was § 87(2)(b) and made the determination to approach him. § 87(2)(b) was asked for identification as well, but only because he was seen associating with a possible robbery suspect. At no point was § 87(2)(b) the subject or focus of the investigation. When § 87(2)(b) refused to cooperate by providing his identification, the officers did not further interact with him as they were focused on § 87(2)(b).

Upon approach, Lt. Zaleski asked § 87(2)(b) and § 87(2)(b) for their names. § 87(2)(b) said his name was § 87(2)(b) and § 87(2)(b) refused to provide any information. Because § 87(2)(b) stated his name was § 87(2)(b) which matched the name of the robbery suspect § 87(2)(b) Lt. Zaleski asked him if he had any ID. § 87(2)(b) informed the officers that § 87(2)(b) was in fact his nephew. He also stated that his ID was inside of his apartment and that the officers could follow him inside to retrieve it, which Lt. Zaleski did.

PO White's account of the incident is largely consistent with Lt. Zaleski's, including that § 87(2)(b) never provided ID. The only notable difference in PO White's account is that he was the one who primarily interacted with § 87(2)(b) while Lt. Zaleski spoke with § 87(2)(b). However, PO White could not speak as to what was said between § 87(2)(b) and Lt. Zaleski (See Board Review 05).

A request for information must be supported by an objective credible reason. People v. DeBour, 40 N.Y.2d 210 (1976) (See Board Review 09).

An officer may stop an individual if they reasonably suspect a person has committed, is committing, or is about to commit a crime. They may also detain the suspect while conducting an investigation to determine whether there is probable cause to make an arrest. Following the investigation, the officer must immediately release the subject if there is no probable cause to arrest the individual and prepare a Stop, Question, and Frisk report. NYPD Patrol Guide Procedure, 212-11 (See Board Review 06).

A person may not be forcibly stopped merely because he or she is seen in the company of another whom the police have probable cause to arrest, People v. McLoyd, 942 N.Y.S.2d 829 (2012) (See Board Review 11).

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

**Allegation D – Abuse of Authority: Lt. Christopher Zaleski searched the car in which**

**§ 87(2)(b) [REDACTED] was an occupant.**

**Allegation E – Abuse of Authority: Lt. Christopher Zaleski searched § 87(2)(b) [REDACTED]**

According to § 87(2)(b) [REDACTED] after Lt. Zaleski ordered § 87(2)(b) [REDACTED] to sit on the rear bumper of the truck, Lt. Zaleski searched inside § 87(2)(b) [REDACTED]'s truck for three to four minutes, going through the center console and looking around the backseat. Nothing was removed from the truck. After he was done with the search, Lt. Zaleski returned to § 87(2)(b) [REDACTED] had him stand up, and searched all of his pants pockets from behind. § 87(2)(b) [REDACTED] (See Board Review 01).

According to both officers, at no point during the course of their interaction was § 87(2)(b) s truck under any suspicion or the subject of any investigation. Additionally, other than their initial suspicion that § 87(2)(b) was associating with a person wanted for criminal activity, § 87(2)(b) himself was not the suspected of any crime. As such, Lt. Zaleski denied searching § 87(2)(b) or his truck and PO White denied seeing Lt. Zaleski do so (See Board Review 04 and 05). The Stop, Question, and Frisk report notes that § 87(2)(b) was not searched and does not make any mention of his truck.

§ 87(2)(g)

**Allegation F – Abuse of Authority – Lt. Christopher Zaleski entered § 87(2)(b) in Brooklyn.**

It is undisputed that Lt. Zaleski entered § 87(2)(b) in Brooklyn with § 87(2)(b). However, what is in dispute is if any permission was given by § 87(2)(b) for Lt. Zaleski to enter.

§ 87(2)(b) alleged that Lt. Zaleski took § 87(2)(b) inside to get his ID when it was determined that § 87(2)(b) did not have it on his person.

According to Lt. Zaleski and PO White, when the officers asked § 87(2)(b) for his name, he told them it was § 87(2)(b). Because he looked like, and shared the same first name as § 87(2)(b), Lt. Zaleski asked § 87(2)(b) for ID. § 87(2)(b) told the officers it was in his apartment, which was directly behind where they were standing, and offered to have the officers accompany him inside while he got his ID.

While Lt. Zaleski and PO White were entirely consistent that § 87(2)(b) provided permission for them to enter the apartment, § 87(2)(b) did not mention that any consent was given. Moreover, he did not go inside with § 87(2)(b) and the officers, and he did not hear any conversation that could have taken place prior to entering the residence. Additionally, the investigation was not able to obtain any statement from § 87(2)(b) himself as he immediately withdrew his participation in the case upon first contact.

§ 87(2)(g)

**Allegation G – Discourtesy: Lt. Christopher Zaleski spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that as Lt. Zaleski came out of § 87(2)(b) s apartment, he told the lieutenant that he was going to make a complaint about him, and that he has made complaints before. Lt. Zaleski told him, “They don’t give a fuck about you there,” in reference to the CCRB (See Board Review 01).

In his CCRB statement, Lt. Zaleski stated that when he and PO White came out of § 87(2)(b)'s apartment, § 87(2)(b) came up to him and showed him a paper from court, which apparently provided information on what to do if someone is stopped by an officer. § 87(2)(b) wanted to know if the information on the paper was accurate and Lt. Zaleski stated it was, but in his opinion, it is better to cooperate with police if they speak to you. Lt. Zaleski denied using any discourtesy towards § 87(2)(b) after walking out of § 87(2)(b)'s apartment. PO White also denied hearing Lt. Zaleski utter the alleged statement above and denied hearing him use any profanity (See Board Review 04 and 05).

§ 87(2)(g) Initially, § 87(2)(b) does state that Lt. Zaleski said, "They don't give a fuck about you." However, at the 5:30 mark, when the undersigned investigator asked § 87(2)(b) if Lt. Zaleski specifically used the word fuck, § 87(2)(b) said no. When the investigator asked for confirmation that Lt. Zaleski did not use the word fuck, § 87(2)(b) alleged once more that the lieutenant did in fact say fuck.

Later in the interview, at the 20:57 mark, § 87(2)(b) stated that Lt. Zaleski, without using profanity, said, "Those people don't care about you down there." For clarification purposes, the undersigned investigator asked § 87(2)(b) if Lt. Zaleski said "They don't care about you" or "They don't give a fuck about you." At the 21:27 mark, § 87(2)(b) again stated that Lt. Zaleski actually used the word fuck. However, at the 21:35 mark, § 87(2)(b) immediately repeated that Lt. § 87(2)(b) just said, "Those people don't care," leaving out the alleged profanity.

§ 87(2)(g)

Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date